

REMARKS

The applicant respectfully request reconsideration in view of the following remarks. Claims 1-23 are provisionally rejected on the grounds of nonstatutory double patenting over claim 11 of copending application 10/568,659. Claims 11-16 are rejected under 35 U.S.C. 102(b) as being anticipated by 6,309,763 (Inbasejaran). Claims 1-10 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inbasejaran. Claims 21 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inbasejaran in view of 6,858,703 (Allen). Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Inbasejaran in view of Allen and further in view of 6,740,900 (Hirai). The applicant respectfully traverses these rejections.

Double Patenting Rejections

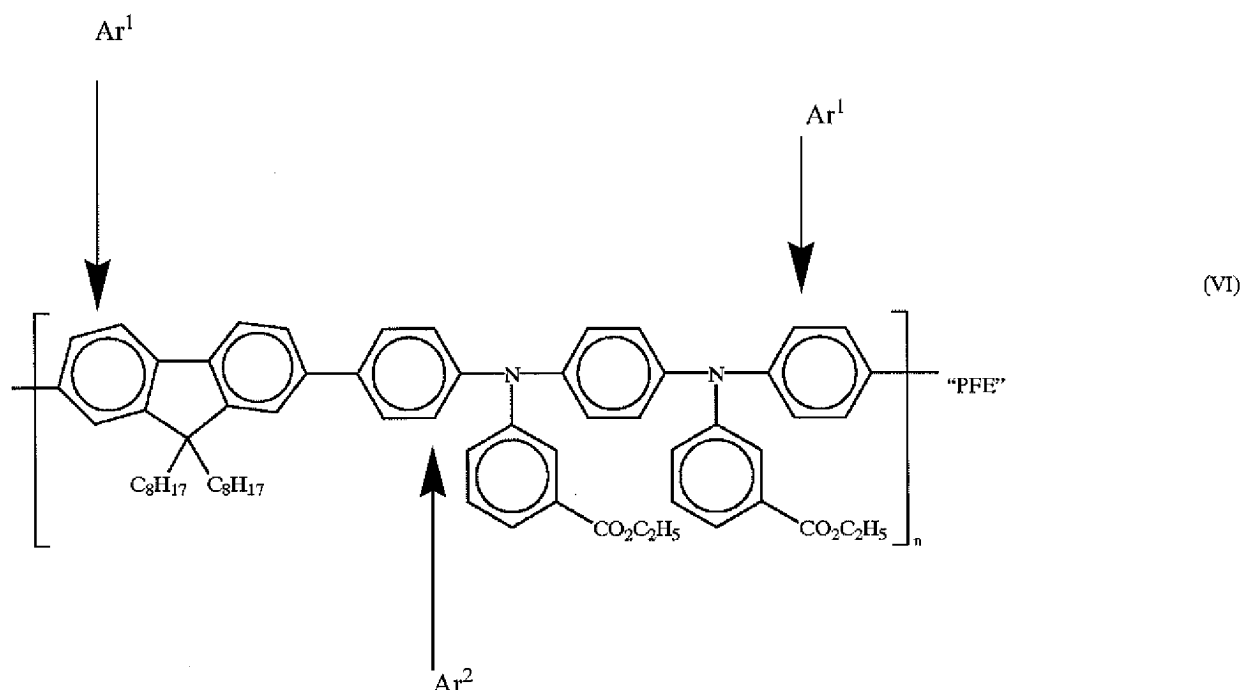
Claims 1-23 are provisionally rejected on the grounds of nonstatutory double patenting over claim 11 of copending application 10/568,659.

In response, Applicants have filed herewith a Terminal Disclaimer. Accordingly, Applicants respectfully request that the double-patenting rejection be withdrawn.

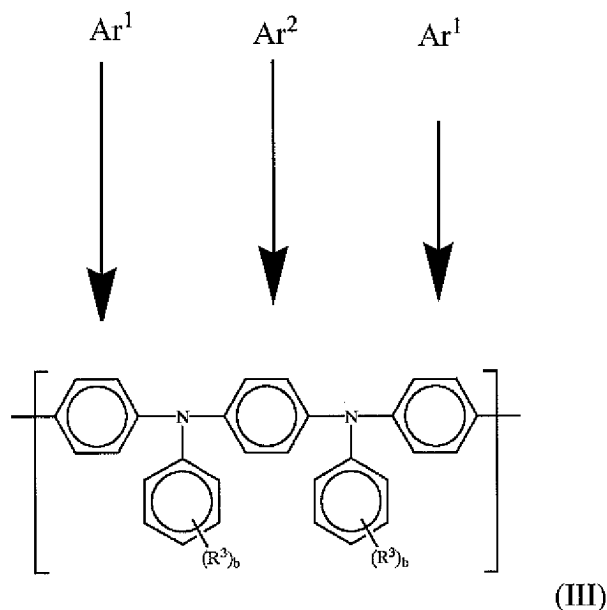
The filing of a Terminal Disclaimer to obviate a rejection based on nonstatutory double patenting is not an admission of the propriety of the rejection. The "filing of a Terminal Disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection." Quad Environmental Technologies Corp. v. Union Sanitary District, 946 F.2d 870, 20 U.S.P.Q.2d 1392 (Fed. Cir. 1991). Accordingly, Applicants filing of the attached disclaimer is provided for facilitating a timely resolution to prosecution only, and should not be interpreted as an admission as to the merits of the obviated rejection. For the above reasons, this rejection should be withdrawn.

Claims 11-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Inbasejaran.

As the Examiner correctly stated, Inbasejaran discloses the polymer according to formula VI.



The unit of this formula (VI) as disclosed in column 4 of Inbasejaran is obtained by a reaction of units (I) and (III), as disclosed in column 1 of Inbasejaran. Unit (III) as well as unit (VI), which are the relevant ones with respect to the units of the present application, both contain phenyl rings in the main chain of the polymer which are unsubstituted. Unit (III) is as follows:



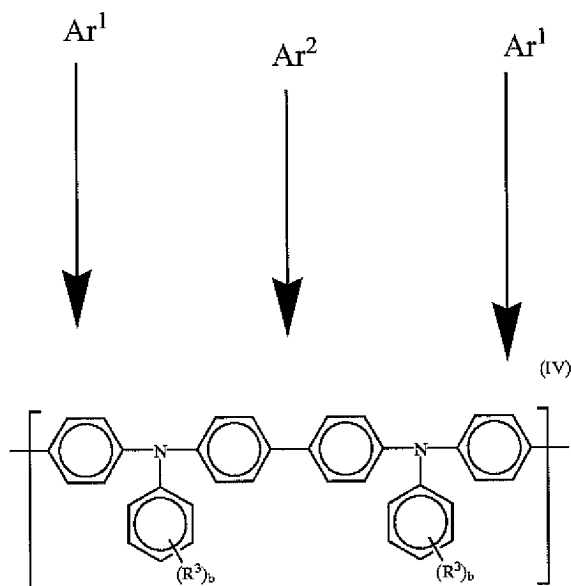
In contrast thereto, the compound of formula (II), as claimed in pending claim 11 of the present application, contains as Ar¹ and Ar² arylene or heteroarylene groups in the main chain and “at least one of Ar², and/or either or both of Ar¹ is substituted with at least one substituent **with at least one substituent**” (see the end of claim 11). Inbasejaran does not require that any or all of Ar¹ or Ar² to be substituted. For the above reasons, this rejection should be withdrawn.

Rejections under 35 U.S.C. 103(a)

Claims 1-10 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inbasejaran. Claims 21 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inbasejaran in view of Allen. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Inbasejaran in view of Allen and further in view of Hirai.

In items 6 and 7 of the Office Action, the Examiner mentioned formulae (IV) and (III) in column 1 and 2 of Inbasejaran.¹ As discussed above formula (III) differs from the applicant's claimed invention since it does not disclose "at least one of Ar², and/or either or both of Ar¹ is substituted with at least one substituent **with at least one substituent**" (see the end of claim 1). Inbasejaran does not require that any or all Ar¹ or Ar² to be substituted.

The unit of formula (IV) of Inbasejaran is as follows:



The unit of formula (IV) differs from the applicant's claimed formula (I) as follows:

Between both Nitrogen atoms there is located a biphenylene group Ar², i.e. a group with two phenylene rings. Such a group is excluded from the claims of the present application, because claim 1 requires: "Ar² (which is located between both Nitrogen atoms) represents an optionally substituted arylene or heteroarylene comprising a linking ring to which the two atoms A (i.e. the Nitrogen atoms) are both directly linked".

¹ It is noted that formula 2, that the Examiner referred to at column 2 is actually formula IV.

Furthermore, the units of formulae (III) and (IV) of Inbasejara differ from the applicant's claimed formula (I) as follows:

The units of formulae (III) and (IV) contain phenyl rings in the main chain of the polymer which are **unsubstituted**. In contrast thereto, the unit of formula (I), as claimed in pending claim 1, contains as Ar¹ and Ar² arylene or heteroarylene groups in the main chain wherein "at least one of Ar², and/or either or both of Ar¹ is substituted with at least one substituent." Again, this feature is not disclosed in these formulas.

With respect to the last mentioned difference, the Examiner stated in the Office Action in paragraph no. 6, page 7, the following:

"Adding a substituent on Ar¹ or Ar² would have been an obvious variant and the resulting polymers would have the same or similar electrical properties."

The applicant respectfully disagrees. According to the working examples of the present application, two inventive polymers (i.e. polymers 7 and 8) as well as two comparative examples (i.e. C7 and C8) have been prepared.

Inventive polymer 7 and comparative polymer C7 are identical with respect to 90 mol % of their repeating units. Both polymers differ only in that polymer 7 contains 10 mol % of the inventive "Monomer 2" (see pages 15 and 16 of the specification) whereas the comparative polymer C7 contains 10 mol % of "Monomer C1". "Monomer 2" and Monomer C1" are nearly identical; they differ only in that "Monomer 2" contains one substituent (i.e. a fluorine atom) on Ar². As can be seen from the table in the working examples of the present application, this substituent influences the properties of the resulting polymer significantly. There is a significant change of the color coordinates of the photoluminescence as well as of the electroluminescence.

The same statement can be made with respect to the comparison of the inventive polymer 8 and comparative polymer C8.

From the above-said follows in the applicant believes that the polymers of the present application have properties, which differ significant from the polymers of the prior art even if they have nearly an identical structure, as pointed out above.

The applicant believes that the secondary references do not cure the deficiencies of the primary reference. For the above reasons, these rejections should be withdrawn.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 03-2775, under Order No. 14113-00040-US from which the undersigned is authorized to draw.

Respectfully submitted,

Electronic signature: /Ashley I. Pezzner/
Ashley I. Pezzner
Registration No.: 35,646
CONNOLLY BOVE LODGE & HUTZ LLP
1007 North Orange Street
P. O. Box 2207
Wilmington, Delaware 19899-2207
(302) 658-9141
(302) 658-5614 (Fax)
Attorney for Applicant

Enclosure : Terminal Disclaimer